

Response to Amendment

1. Applicant's election with traverse of the species of Figures 10-11 and the sub-species covering Figure 5 in the reply filed on January 26, 2009 is acknowledged.

However, as noted by the Examiner in both the original requirement for an election of species mailed July 17, 2008 (on page 2, in the sentence beginning "[A]s a side note...") and in the Notice of Non-Compliant Amendment mailed December 24, 2008 (on page 5, in the sentence beginning "[A]s as side note..."), it does not appear that the elected species of Figures 10-11 shows the sealing processing station being a combined processing station which stamps a tear off cover from a foil and places it over a hole (which is what is covered in claim 5).

Thus, by electing the sub-species of claim 5 (which does not appear to read on the elected species of Figures 10-11), it is unclear whether Applicant is intending/attempting to actually elect a not-shown species rather than the species of Figures 10-11, i.e., it appears that applicant may be attempting to elect a not-shown species possibly including various aspects of Figures 10-11, but also including a sealing processing station that is a combined processing station which stamps a tear off cover from a foil and places it over a hole (which isn't part of the shown species of Figures 10-11).

Thus, it is unclear what invention/species Applicant actually wishes to elect: the species of Figures 10-11, or a not-shown species as just described.

As a side note, Applicant has asserted that "[T]he requirement for electing a species and sub-species is being traversed because it is our opinion that claims 1 and 2 are the same species (and thus Figs. 10, 11 and 12 are the same species)". Note that the Examiner is not requiring a restriction based on different sets of independent claims, but is requiring an election of species,

i.e., Examiner is not restricting between claims 1 and 2, per se, but is requiring Applicant to select a single species of invention for prosecution. Claim 1 appears to be currently drawn so as to read on multiple different species, i.e., claim 1 currently reads on both the species of Figures 10-11 and the species of Figure 12, for example. Thus, an election of the species of Figures 10-11 would result in the examination of claim 1 (at least as claim 1 is presently presented). An election of the species of Figure 12 would also result in the examination of claim 1.

Claim 2, however, does not appear to read on the species of Figure 12 because Figure 12 does not show processing stations (such as 43) that are “each equipped for the processing of a single object” noting that in Figure 12, the processing station 43 is equipped for the processing of multiple objects via the provision of multiple tools 59’, etc. at the station. Claim 2 does read on the species of Figures 10-11. Thus, if the species of Figures 10-11 is elected, claim 2 will also be examined. However, if the species of Figure 12 is elected, claim 2 (at least as claim 2 is currently presented) would not be examined.

There are various dependent claims, however, that read on other species besides that of Figures 10-11. For example, claim 5 does not read on the species of Figures 10-11 because Figures 10-11 do not show a sealing processing station that is in the form of a “combined processing station which stamps a tear-off cover from a foil and places it over the hole”. This is but one example in an attempt to help Applicant to understand election-of-species-type restrictions. All dependent claims need to be reviewed to see if they read on the particular elected species. Examiner suggests looking at the figures for whichever species Applicant ultimately elects and comparing that to the claims. If the features of a particular claim are not reflected in the figures for the elected species, the claim does not read on the elected

invention/species. (Note that dependent claims include all limitations of the claims from which they depend, and that this must be taken into consideration when determining whether a dependent claim reads on a particular species.)

At this time, since it is unclear whether Applicant intends to elect the species of Figures 10-11, or intends to elect a further not-shown species that includes processing stations that are each equipped for the processing of a single object and that also includes a sealing processing station that is a combined processing station which stamps a tear-off cover from a foil and places it over the hole, Examiner is unable to assess which claims are readable on the elected invention (i.e., since it is unclear what the elected invention is).

2. Because of the foregoing, the reply filed on January 26, 2009 is not fully responsive to the prior Office Action. See 37 CFR 1.111. Since the above-mentioned reply appears to be *bona fide*, applicant is given **ONE (1) MONTH or THIRTY (30) DAYS** from the mailing date of this notice, whichever is longer, within which to supply the omission or correction in order to avoid abandonment. **EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.136(a).**

For Applicant's convenience, the previous election/restriction requirement is repeated hereinbelow.

Election/Restrictions

3. This application contains claims directed to more than one species of the generic invention. These species are deemed to lack unity of invention because they are not so linked as to form a single general inventive concept under PCT Rule 13.1.

4. The species are as follows:

The species of Figures 10-11, the species of Figure 12, the species of Figure 13

Furthermore, there are plural sub-species within the above species, such as a species wherein the sealing processing station is a combined processing station which stamps a tear-off cover from a foil and places it over the hole (as per claim 5, for example) and a different sub-species wherein the sealing processing station is one equipped to apply a previously stamped out tear-off cover (as per claim 6, for example)

(As a side note, Examiner notes that it does not appear that any of the species of Figures 10-11, of Figure 12, or of Figure 13 show the sealing processing station being a combined processing station which stamps a tear off cover from a foil and places it over a hole.)

Applicant is required, in reply to this action, to elect a single species (along with a single sub-species within the elected species) to which the claims shall be restricted if no generic claim is finally held to be allowable. The reply must also identify the claims readable on the elected species, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered non-responsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

5. The species listed above do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, the species lack the same or corresponding special technical features for the following reasons: in accordance with the guidance set forth in MPEP

section 1850, it has been determined *a posteriori*, i.e., after taking the prior art into consideration, that the features common to all the claims, i.e., “an advancing mechanism and a number of processing stations arranged in succession along the advancement direction” wherein the processing stations process objects, do not constitute “special technical features” since they do not make a “contribution” over the prior art in light of at least U.S. Pat. No. 6,098,268 to Negre et al., for example. Specifically note that Negre teaches a processing device comprising an advancing mechanism in the form of conveyor 1 that conveys an object to be processed in an advancement direction A to multiple processing stations 7, 4, 16, for example (see at least Figure 1 and col. 2, lines 51-67 and col. 3, lines 1-27, for example).

6. Applicant is advised that the reply to this requirement to be complete must include (i) an election of a species or invention to be examined even though the requirement may be traversed (37 CFR 1.143) and (ii) identification of the claims encompassing the elected invention.

The election of an invention or species may be made with or without traverse. To preserve a right to petition, the election must be made with traverse. If the reply does not distinctly and specifically point out supposed errors in the restriction requirement, the election shall be treated as an election without traverse.

7. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Erica E. Cadugan whose telephone number is (571) 272-4474. The examiner can normally be reached on Monday-Thursday, 5:30 a.m. to 4:00 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David P. Bryant can be reached on (571) 272-4526. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Erica E Cadugan/
Primary Examiner
Art Unit 3726

eec
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